

Rye City Planning Commission Minutes

September 28, 2004

PRESENT:

Martha Monserrate
G. Patrick McGunagle
Peter Larr
H. Gerry Seitz
Nick Everett
Hugh Greechan

ABSENT:

Barbara Cummings

ALSO PRESENT:

Christian K. Miller, AICP, City Planner

Due to Barbara Cummings' absence, Vice-Chair Monserrate served as Chair for the meeting.

I. HEARINGS

1. Rye Town Dock

Peter Larr recused himself from the discussion of this matter and left the hearing room.

Chair Monserrate read the public notice. The City Planner indicated the applicant submitted an affidavit noting compliance with the City's notification requirements.

Jennifer Porter (attorney) indicated she was representing the Shenorock Shore Club who is funding the reconstruction of the Rye Town Dock. The City Planner inquired as to whether Ms. Porter or anyone else in the hearing room was representing the Town of Rye, which is the applicant and property owner. Ms. Porter responded she was not prepared to state that she represented the Town of Rye. The Planning Commission agreed on the importance of having the applicant represented for the purpose of the public hearing and stated it would keep the hearing open until such time as the Town of Rye was properly represented.

Ms. Porter continued her presentation noting that Shenorock Shore Club is seeking to change the Planning Commission's prior approval to omit the previously approved exterior lights along the dock railings. Ms. Porter indicated the lights on the plan were an inadvertent error by the consulting engineer. Ms. Porter also indicated a concern that the lights at the dock would be an invitation to use the facility after hours, presenting potential liability concerns.

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1 Bill Ball indicated he was a member of the Save the Rye Town Dock Association. Mr.
2 Ball indicated he had been very supportive of Shenorock Shore Club's efforts to
3 rehabilitate the dock but he does not support the requested change. Mr. Ball stated the
4 lights were part of the original plan and approval and should be provided. He also noted
5 the lights would serve to enhance the dock use and the surrounding area.
6

7 Doug Carey (resident of 131 Purchase Street) also indicated he was a member of the
8 Save the Rye Town Dock Association, which just conducted its annual meeting. Mr.
9 Carey stated the dock is open an hour before and an hour after dawn and dusk and the
10 lights were necessary for safety of the pedestrians. Mr. Carey stated the dock is heavily
11 used and the lights would be necessary, particularly at the end of the dock where
12 lighting is limited. Mr. Carey further stated the bait station shown on the originally
13 approved drawings should be provided.
14

15 Andrew Ball (resident of 2 Loder Street) indicated he was a member of the Save the
16 Rye Town Dock Association. Mr. Ball questioned why the applicant feels the lights are
17 not necessary and stated he wanted to hear from the Town of Rye. Mr. Ball stated the
18 plans including the lights were submitted to the New York State Department of State
19 and those plans were basis upon which the State granted coastal consistency approval
20 for the project. Mr. Ball stated the lights should be provided consistent with the plans
21 shown to New York State and as a matter of principal.
22

23 Phil DeCaro (278 Rye Beach Avenue resident) stated he was a member of the
24 American Yacht Club and based on his observations the dock was never used after
25 hours. Mr. DeCaro further stated adequate lighting exists at the site including a street
26 light at the end of the dock.
27

28 The Planning Commission agreed to keep the hearing open to give the applicant the
29 proper opportunity to be represented.
30

31 On a motion made by Gerry Seitz, seconded by Nick Everett and carried by the
32 following vote:
33

34 AYES: Martha Monserrate, Patrick McGunagle, Gerry Seitz, Nick Everett, Hugh
35 Greechan

36 NAYS: None

37 RECUSED: Peter Larr

38 ABSENT: Barbara Cummings
39

40 the Planning Commission took the following action:
41

42 ACTION: The Planning Commission kept open the public hearing on wetland permit
43 application number WP116.
44

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1 Upon conclusion of this discussion, Commission member Larr returned to the hearing
2 room.

2. Spelman Subdivision (Continued)

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4
5
6 Matthew Bavoso (applicant's attorney) stated the application involves a 2-lot subdivision
7 for a property located at 135 Bradford Avenue, which is situated on the corner of Hunt
8 Place and Bradford Avenue. Mr. Bavoso stated that as requested by the Planning
9 Commission in its last meeting revisions were made to the drawings including showing
10 surrounding driveways adjacent and across from the property and confirming the invert
11 elevations of the catch basin located in Bradford Avenue.

12
13 Jim Holzer (Hunt Place resident) noted he supported the paving of Hunt Place but
14 stated drainage measures should be provided to accommodate the increase in
15 stormwater runoff. Mr. Holzer stated the driveway of the proposed residence would
16 increase impervious area on the site by 8 percent. He further stated the final grading on
17 the property would redirect stormwater towards the roadway. This increase in storm
18 water runoff will require that a drainage system be provided in the street. Mr. Holzer
19 questioned the applicant's engineer's statement that the existing roadway is impervious.
20 He noted the existing gravel roadway is pervious and paving the roadway would
21 increase storm water runoff. Mr. Holzer stated he supported the proposed subdivision
22 and paving of Hunt Place but storm water drainage measures should be provided.

23
24 The Commission questioned Mr. Holzer's calculation of the increase in impervious area.
25 Mr. Holzer stated it was based on the measurement of the driveway shown on the
26 applicant's plan but it did not include the removal of the existing driveway on the
27 property. Mr. Holzer stated he was concerned regarding drainage because of the
28 existing drainage problem on Hunt Place, which results in storm water accumulating in
29 front of his property.

30
31 Mary Lou Giris (20 Hunt Place resident) stated there had never been flooding problems
32 on Hunt Place until the construction of Mr. Holzer's residence at 36 Hunt Place. She
33 stated the construction of that property required significant land filling that directed
34 storm water runoff towards her property which abuts 36 Hunt Place. Ms. Giris stated
35 she complained regarding the extent of landfill at the time but the City did not respond
36 to her concerns.

37
38 Ms. Giris stated she did not oppose to the subdivision but she objected to the location
39 of the proposed driveway, which would be located opposite her driveway. She stated
40 the location of this driveway could result in vehicle conflicts as she backs out of her
41 driveway.

42
43 Debbie Giris (daughter of Mary Lou resident) noted a number of water concerns in the
44 neighborhood and concerns with the impact of the paving of Hunt Place. Ms. Giris
45 stated storm water does accumulate on Hunt Place and the paving of the roadway

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1 could redirect this water towards adjacent properties. Ms. Giris further stated she
2 understands that the applicant will be providing on-site drywells but wanted to confirm
3 that additional measures be provided to provide adequate protection to the
4 neighborhood.

5
6 Charles Sabel (10 Hunt Place resident) also noted concerns regarding the impact of the
7 subdivision on area drainage. Mr. Sabel stated the property is currently a net receiver of
8 storm water runoff and the excavation and grading activities on the property would
9 redirect this storm water to neighborhood properties. Mr. Sabel stated the proposed
10 paving would also increase the amount of storm water and the speed of runoff from the
11 property. Mr. Sabel objected to the proposal to pave Hunt Place. He stated the paving
12 would be inconsistent with the country-like character of the neighborhood. Mr. Sabel
13 further stated that paving only a portion of Hunt Place would break up the character of
14 the street. Mr. Sabel stated if paving of the roadway is required by the Planning
15 Commission that adequate storm water drainage in the street also be provided.

16
17 Bill Morgenroth (applicant's engineer) responded to the residents concerns stating that
18 it appears based on the comments of the public hearing that there is an existing
19 drainage problem in the area and it is associated with water running across existing
20 properties down towards the Beaver Swamp Brook. Mr. Morganroth stated the path of
21 storm water likely transverses through the property at 36 Hunt Place until this house
22 was constructed which appears to have blocked the storm water patterns and resulted
23 in ponding at the end of Hunt Place. Mr. Morganroth stated the proposed subdivision
24 would not adversely impact this preexisting condition.

25
26 Mr. Morganroth stated that public concerns regarding the proposed driveway could be
27 addressed by providing appropriate catch basins at the end of the driveway and
28 directing storm water towards the on-site drywells. Mr. Morganroth indicated there
29 would likely not be a net increase in impervious area on the property associated with
30 the driveway since the existing driveway would be removed. Mr. Morganroth stated the
31 8% increase in impervious area referred to at the public hearing was not correct.

32
33 Mr. Morganroth stated the driveway was located to protect an existing 40-inch caliper
34 tree and from an engineering prospective it was generally desirable to have driveways
35 opposite one another rather than staggered. In any event, Mr. Morganroth stated that
36 vehicle impact would be insignificant since Hunt Place is not a heavily traveled
37 roadway.

38
39 The City Planner questioned Mr. Morganroth as to his opinion as to whether the
40 proposal to pave Hunt Place would require the drainage systems requested by area
41 neighbors. Mr. Morganroth responded the applicant is not proposing the paving of Hunt
42 Place but is being requested to by the Planning Commission. The applicant will provide
43 the paving as required. Mr. Morganroth stated the existing roadway is relatively
44 impervious and there would be a slight increase in storm water runoff but not significant
45 enough to necessitate the need for additional drainage measures.

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The Planning Commission questioned the cost to install the drainage system. Mr. Morganroth stated the drainage line would need to be extended approximately 250 feet from the site and the cost of installing piping could be anywhere from \$60 to \$100 a linear foot depending on whether rock was encountered in the excavation process. Mr. Morganroth added the drainage system would not address preexisting drainage problems on the street.

Debbie Giris questioned the applicants engineer regarding the proposed drywells and where that water would be directed. Mr. Morganroth stated that storm water directed to the drywells would seep into the ground. Ms. Giris responded she is concerned the applicant's proposal as shown to the Planning Commission will be different then that which is ultimately constructed. Ms. Giris stated previous approvals associated with the preserve subdivision differed significantly from the approved plans. She wanted to make sure that the City was fully aware of area drainage problems and the potential impact of the proposed subdivision.

Mary Lou Giris stated she objected to the paving since it would disrupt the character of the country feel of the road. She noted the residents of Hunt Place have agreed to maintain the roadway in a suitable fashion and it was recently upgraded. She stated the poor condition of the roadway was due to the house construction at the end of the street.

Jim Holzer stated the water that stands in front of his property at the end of Hunt Place is not related to the construction of his residence. He stated the water previously went towards Johnson Place and the construction of the Preserve subdivision created this increase in storm water. Mr. Holzer reasserted his opinion that the proposed subdivision by the applicant would increase storm water runoff and aggravate this existing condition.

Charles Sabel stated the road is not impervious. He stated the roadway currently retains water and paving of the roadway will redirect water towards neighboring properties. Mr. Sabel stated he is aware of other construction activities in Rye where residents were assured that drainage measures would be provided but those mitigation measures did not work and adversely impacted neighboring properties.

On a motion made by Peter Larr, seconded by Gerry Seitz and carried by the following vote:

AYES: Martha Monserrate, Peter Larr, Patrick McGunagle, Gerry Seitz, Nick Everett, Hugh Greechan

NAYS: None

RECUSED: None

ABSENT: Barbara Cummings

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the Planning Commission took the following action:

ACTION: The Planning Commission closed the public hearing final subdivision application number SUB286.

3. Beechwind Subdivision

Vice-Chair Monserrate read the public notice.

Rex Gedney (applicant's architect) introduced the team of professionals working on behalf of the applicant and provided an overview of the application. Mr. Gedney stated that the application involved a request to subdivide an existing 0.53-acre property into two building lots. A wetland permit is also required for the construction of the proposed residences within the 100-foot wetland buffer of Milton Harbor.

Mr. Gedney stated the property is approximately 23,000 square feet and that proposed Lot 1 located on the southern half of the site would be 13,500 square feet and that Lot 2, located adjacent to the Shongut property would be 9,874 square feet. All existing structures on the property, including the former Gedney store, would be removed.

Mr. Gedney stated that the City Board of Appeals (BOA) granted variances requested by the applicant at its special meeting on September 23. As a condition of that approval, Mr. Gedney stated that the BOA required a 35-foot view corridor to be placed on the southerly side of Lot 1. The Commission questioned the terms of the view corridor restrictions. The City Planner indicated that he received a memorandum from the City Clerk, which provides a general description of the restrictions, but that the memorandum appears to exclude some of the restrictions discussed at the BOA meeting. Mr. Gedney responded that it was his understanding that the BOA required the applicant to limit the height of all structures on the property to not exceed a foot above a benchmark established at the front property line on Milton Road. Mr. Gedney stated that the exceptions to this restriction would be a two-foot wall on Milton Road, plantings adjacent to the proposed building foundation on Lot 1, a portion of the driveway and safety fencing along the top of the bulkhead adjacent to Milton Harbor.

The City Planner questioned whether the BOA is requiring the removal of existing trees within the view corridor, noting that this requirement was not stated in the City Clerk's memorandum. Mr. Gedney stated that it was his understanding that the BOA is requiring the removal of existing trees to provide the public with more visual access to the water.

The Planning Commission agreed that it would keep the hearing open until it had received the official findings and decision of the BOA.

There was no public comment.

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1 On a motion made by Gerry Seitz, seconded by Nick Everett and carried by the
2 following vote:

3
4 AYES: Martha Monserrate, Peter Larr, Patrick McGunagle, Gerry Seitz, Nick
5 Everett, Hugh Greechan

6 NAYS: None

7 RECUSED: None

8 ABSENT: Barbara Cummings

9
10 the Planning Commission took the following action:

11
12 ACTION: The Planning Commission kept open the public hearing final subdivision
13 application number SUB283 and wetland permit application number
14 WP143.

4. Commerce Bank

15
16
17
18 The City Planner stated that the applicant had not complied with the City's public
19 notification requirements and recommended that the Commission set a new public
20 hearing for its next meeting on October 12.

21
22 On a motion made by Peter Larr, seconded by Gerry Seitz and carried by the following
23 vote:

24
25 AYES: Martha Monserrate, Peter Larr, Patrick McGunagle, Gerry Seitz, Nick
26 Everett, Hugh Greechan

27 NAYS: None

28 RECUSED: None

29 ABSENT: Barbara Cummings

30
31 the Planning Commission took the following action:

32
33 ACTION: The Planning Commission set a public hearing on final site plan
34 application number SP284 for its next meeting on October 12, 2004.

5. Greenpoint Bank

35
36
37
38 Robert Morrissey (applicant's architect) stated that the application involves an interior
39 and exterior renovation of a former retail building to be used as a bank. Mr. Morrissey
40 stated that the site plan was revised as requested by the Commission at its last meeting
41 to modify the type of exterior light fixture from an unshielded floodlight to a gooseneck
42 light, which has a downward cast.

43
44 Mr. Morrissey stated that the renovation would provide a new storefront and sidewalk
45 on Purchase Street, new siding and a new brick treatment in the rear of the property.

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There was no public comment.

On a motion made by Peter Larr, seconded by Nick Everett and carried by the following vote:

AYES: Martha Monserrate, Peter Larr, Patrick McGunagle, Gerry Seitz, Nick Everett, Hugh Greechan

NAYS: None

RECUSED: None

ABSENT: Barbara Cummings

the Planning Commission took the following action:

ACTION: The Planning Commission closed the public hearing on final site plan application number SP286.

6. 75 Theodore Fremd

The City Planner stated that the applicant had not complied with the City's public notification requirements and recommended that the Commission set a new public hearing for its next meeting on October 12.

On a motion made by Nick Everett, seconded by Gerry Seitz and carried by the following vote:

AYES: Martha Monserrate, Peter Larr, Patrick McGunagle, Gerry Seitz, Nick Everett, Hugh Greechan

NAYS: None

RECUSED: None

ABSENT: Barbara Cummings

the Planning Commission took the following action:

ACTION: The Planning Commission set a public hearing on modified final site plan application number SP229 for its next meeting on October 12, 2004.

II. ITEMS PENDING ACTION

1. Rye Town Dock

There was no discussion of this matter.

2. Spelman Subdivision (Continued)

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1
2 The Commission discussed the existing drainage infrastructure in the project area. Bill
3 Morginroth (applicant's engineer) confirmed that the invert elevation of the existing
4 catch basin on Hunt Place is approximately 6.5 feet below the street (i.e. rim) elevation.

5
6 The Commission responded to the comments raised in the public hearing regarding
7 drainage concerns associated with the paving of Hunt Place. The Commission noted
8 that the City Engineer has advised that the existing roadway, though gravel, is
9 impervious and that area neighbors will not be adversely impacted by the paving of the
10 roadway. The Commission stated it was advised by the City Engineer/Director of Public
11 Works that roadway paving was required to provide suitable access to the new lot for
12 emergency and municipal services. The existing private gravel roadway was not
13 sufficient and required the threat of the suspension of municipal services in order have
14 its substandard condition upgraded. The Commission also noted that most residents
15 acknowledged that there was an existing drainage problem on Hunt Place. The
16 applicant is not responsible to correct this existing deficiency and would not further
17 aggravate this pre-existing condition with the paving of the roadway.

18
19 The Commission discussed potential differences between the site improvements shown
20 on the subdivision plan and the potential future development filed in connection with a
21 building permit on the proposed new lot. The City Planner advised that the applicant for
22 a building permit on that lot would be required to comply with all relevant laws that exist
23 at that time, including a surface water control permit. This permit, the City Planner
24 explained, prohibits a net increase in stormwater runoff onto adjacent properties.

25
26 The City Planner added that the Commission's responsibility is to insure that the
27 development on the approved new lot would not have foreseeable difficulties in terms of
28 addressing future drainage concerns. The City Planner advised that if the Commission
29 anticipates that there may be a foreseeable difficulty associated with either the paving
30 of the road or future development on the lot then it should require the applicant to
31 provide appropriate mitigation measures, such as the installation of a stormwater
32 system in Hunt Place. Mr. Morginroth stated that the applicant has proposed drywells,
33 which should accommodate any net increase in stormwater runoff. The Commission
34 added that the City Engineer has advised that the proposed paving would not result in
35 an increase in adverse drainage impacts.

36
37 On a motion made by Peter Larr, seconded by Gerry Seitz and carried by the following
38 vote:

39
40 AYES: Martha Monserrate, Peter Larr, Patrick McGunagle, Gerry Seitz, Nick
41 Everett, Hugh Greechan
42 NAYS: None
43 RECUSED: None
44 ABSENT: Barbara Cummings
45

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the Planning Commission took the following action:

ACTION: The Planning Commission adopted a resolution conditionally approving final subdivision application number SUB286.

3. Beechwind Properties

The Commission reiterated that it was not going to take further action on the application until it has received the findings and decision of the Board of Appeals (BOA). The Commission noted the importance of coordinating the decisions of both boards.

The Commission noted it had received a revised landscape plan and amendments to the applicant's remedial action plan. The Commission noted that the remedial action plan was revised to include provisions to address dust accumulation during the excavation process, including implementing a decontamination process if necessary. The applicant indicated that the plan would be submitted to NYSDEC.

The Commission reviewed the landscape plan and requested that it be further revised to be better coordinated with the engineering drawings.

4. Commerce Bank

Due to the notice deficiency there was no discussion of this matter.

5. Greenpoint Bank

The Commission discussed the proposed rear access to the building and whether the applicant contacted the adjacent property owner, whose property runs parallel to the applicant's is crossed to gain access to the building. The Commission stated its interest, if possible, to extend the proposed brick treatment in the rear of the property across the adjacent property to the edge of the parking area.

Mr. Morrissey stated that the applicant's attorneys contacted the adjacent property, but that he is not interested in any change in paving material that might result in the perceived loss of parking. Currently, the abutting property owner uses the narrow strip of land between the rear of the applicant's building and the edge of the parking lot for parking.

The Commission reviewed the applicant's survey and site plan and noted a discrepancy between the dimensions from the edge of the parking area to the rear of the applicant's building. The Commission requested that the site plan be revised to correct this discrepancy. The Commission noted based on the site plan drawing it would be possible for the City to expand the adjacent parking area to provide additional parallel parking, though the number of spaces would be limited. The Commission questioned

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1 whether the applicant would be opposed to such additional spaces. Mr. Morrissey
2 stated that the applicant would not object.

3
4 Mr. Morrissey provided an overview of the new drainage measures, which will redirect a
5 substantial portion of existing roof runoff towards a new connection in Purchase Street.
6 This will also prevent water from entering the basement.

7
8 On a motion made by Peter Larr, seconded by Gerry Seitz and carried by the following
9 vote:

10
11 AYES: Martha Monserrate, Peter Larr, Patrick McGunagle, Gerry Seitz, Nick
12 Everett, Hugh Greechan

13 NAYS: None

14 RECUSED: None

15 ABSENT: Barbara Cummings

16
17 the Planning Commission took the following action:

18
19 ACTION: The Planning Commission adopted a resolution conditionally approving
20 final site plan application number SP286.

6. 75 Theodore Fremd

21
22
23
24 Due to the notice deficiency there was no discussion of this matter.

7. Community Synagogue of Rye

25
26
27
28
29 Jonathan Kraut (applicant's attorney) stated that the purpose of tonight's meeting was
30 to consider setting a public hearing on the matter and to potentially receive the
31 comments of the CC/AC. The City Planner stated that the comments of the CC/AC had
32 not been received.

33
34 Mr. Kraut stated that the applicant intends to change the plans to indicate a pervious
35 wood deck rather than the previously proposed impervious bluestone. Mr. Kraut stated
36 that this revision would avoid the requirement to provide wetland buffer plantings within
37 the 100-foot wetland buffer.

38
39 The Commission encouraged its members to visit the property and to consider the
40 extent of vegetation removal proposed by the applicant in the rear of the site.

41
42 The Commission discussed the overflow parking area and stated it preferred a material
43 other than the grasscrete proposed by the applicant. The Commission reasoned that
44 an alternative product would be more effective in allowing grass to grow "through" the

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1 temporary parking area and be less intrusive to the neighbors. Mr. Kraut stated that his
2 client would consider the Commission's request.

3
4 On a motion made by Peter Larr, seconded by Gerry Seitz and carried by the following
5 vote:

6
7 AYES: Martha Monserrate, Peter Larr, Patrick McGunagle, Gerry Seitz, Nick
8 Everett, Hugh Greechan

9 NAYS: None

10 RECUSED: None

11 ABSENT: Barbara Cummings

12
13 the Planning Commission took the following action:

14
15 ACTION: The Planning Commission set a public hearing on modified site plan and
16 use permitted subject to additional standards and requirements
17 application number SP#146B.

8. Discussion of Bowman Avenue Development (Village of Rye Brook)

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19
20
21 The Commission was advised by the City Planner of a proposed commercial and
22 residential development in the Village of Rye Brook located on the south side of
23 Bowman Avenue adjacent to Blind Brook. The Commission noted concern with the
24 potential impact of the development on downstream flooding. The Commission's
25 greatest concern was that development of this property could preclude future flood
26 mitigation opportunities for the City.